

## Message Text

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ACTION L-03

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FM AMEMBASSY ROME

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E.O. 11652: N/A

TAGS: CPRS (L/C)

SUBJECT: CLAIM OF RAYTHEON CORPORATION AND MACHLETT LABORATORIES

REF: ROME 5295; STATE 119096

FOR L/C

1. AS DISCUSSED TELCON WASHINGTON, EMB HAS BEEN IN TOUCH WITH MINISTRY OF FONAFF WORKING LEVEL OVER PAST WEEKS RE MATTERS RAISED REFTTEL. VIEWS AND SUGGESTIONS FOLLOW.

2. EMB WISHES NOTE RE POSITION STATED REFTTEL, POSSIBILITY DIVISION OF CLAIM INTO TWO ELEMENTS, I.E., USG/RAYTHEON CLAIM AGAINST GOI AND BANK SUITS AGAINST RAYTHEON, WAS UNDERTAKEN TO ATTEMPT BREATHE NEW LIFE INTO INFORMAL NEGOTIATIONS AND SEEK RESOLUTION BY OFFSET ONE AGAINST OTHER. THIS WAS DISCUSSED BY AMB AND STAFF WITH RAYTHEON INTERNATIONAL VP OPPENHEIM ON MARCH 9 AND WITH MR. ADAMS ON APRIL 3, ROME AND JUNE 1, PARIS. WHILE WE FULLY AWARE THAT BANK CLAIMS PART OF OVERALL CLAIM, RAYTHEON'S OWN ASSESSMENT OF 51-49 CHANCE OF WINNING/LOSING CASE AGAINST BANK SUITS, AND GOI OFFICE OF DIPLOMATIC DISPUTES TOTAL REJECTION OF VALIDITY RAYTHEON CLAIM, SUGGESTED ONLY AVENUE RESOLUTION CASE WITHIN REASONABLE TIME-FRAME WOULD BE NEGOTIATED SETTLEMENT INVOLVING TRADEOFF THROUGH POLICY-LEVEL INTERVENTION. REF DEPTTEL  
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FIRST OBJECTION TO THIS CONCEPT SINCE PROPOSED MARCH 9.

3. DEPT'S PROPOSAL PARA 2 DEPTTEL, WHICH PRESUME BASIS FOR DISCUSSIONS WITH BANKS WOULD BE CONTINGENT UPON PRE-AGREEMENT GOI TO SETTLE DIPLOMATIC CLAIM, AS SPELLED OUT PARA 1D, SEEMS UNREALISTIC AT PRESENT. AS DEPT IS AWARE, MFA HOLDS THERE IS NO BASIS FOR RAYTHEON CLAIM ON GOI, AND WOULD NOT ARRANGE MEETINGS FOR NEGOTIATIONS WITH BANKS PLACING ENTIRE BURDEN OF SUCH NEGOTIATIONS ON SETTLEMENT OF RAYTHEON CLAIM. MFA APPROACH TO BANKS WAS PURELY TO ARRANGE BILATERAL DISCUSSIONS BETWEEN RAYTHEON- MACHLETT AND BANKS, AND THEY CLEARLY EXPRESSED INTENTION TO STAY OUT OF SUCH DISCUSSIONS.

4. AT SAME TIME, WHILE OUR DISCUSSIONS WITH MFA INDICATE IT MIGHT BE PERSUADED RE-CONTACT BANKS TO WORK OUT APPOINTMENT DETAILS FOR MEETINGS BETWEEN RAYTHEON AND BANKS, MFA ALSO VOICES NO OBJECTION TO CONTINUING POLICY LEVEL EFFORTS TOWARD SETTLEMENT, WHICH OPENS DOOR TO SUGGESTIONS SET FORTH PARA 5.

5. WE SUGGEST FOLLOWING ALTERNATIVE TOP LEVEL APPROACHES FOR CONSIDERATION BY DEPT AND RAYTHEON AS ONLY REMAINING BASES FOR ATTEMPTS AT INFORMAL SETTLEMENT:

A) ATTEMPT CONVINCE GOI RECOGNIZE AND SETTLE RAYTHEON CLAIM ON UNDERSTANDING THAT SETTLEMENT WOULD BE USED SATISFY ITALIAN BANK CLAIMS. THIS IS DIFFERENT THAN GOING TO BANKS, AS SUGGESTED REFTTEL, AND NEGOTIATE DIRECTLY WITH THEM ON A CONTINGENCY BASIS.

B) ATTEMPT CONVINCE GOI RECOGNIZE RAYTHEON CLAIM, AND IN VIEW SUCH RECOGNITION, GOI ASSUME ALL RESPONSIBILITY TO SATISFY ITALIAN BANKS' CLAIMS AS REFLECTED IN SUITS NOW PENDING AGAINST RAYTHEON. RAYTHEON WOULD NOT BE INVOLVED IN MECHANICS OF SUCH SETTLEMENT.

6. A) BOTH ALTERNATIVES WOULD REQUIRE, ONCE GOI AGREED TO RECOGNITION IN PRINCIPLE OF RAYTHEON CLAIM, NEGOTIATIONS WITH BANKS. HOWEVER, IN BOTH CASES, THE GOI WOULD BE INTERESTED PARTY AND COULD BE EXPECTED TO EXERT STRONG INFLUENCE IN ITS OWN INTERESTS. NEITHER APPROACH OFFERS DIRECT FINANCIAL BENEFITS TO RAYTHEON SAVE ELIMINATION OF BANK SUITS POTENTIAL LIABILITY AND SAVINGS ON LEGAL FEES CONNECTED WITH THE LONG BATTLES EXPECTED WITH BOTH BANK SUITS AND DIPLOMATIC CLAIM. OF COURSE BOTH APPROACHES CON-

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DITIONED ON ASSUMPTION THAT GOI CAN BE INDUCED FOR POLICY REASONS REVERSE CURRENT POSITION RE INVALIDITY OF RAYTHEON CLAIM.

B) IF FINANCIAL SATISFACTION RAYTHEON ESSENTIAL, ALTERNATIVES A AND B ABOVE COULD BE MODIFIED BY MAKING GOI RECOGNITION, SETTLEMENT OF RAYTHEON CLAIM, AND PAYOFF TO BANKS SUBJECT NEGOTIATIONS OF AMOUNTS AND PROPORTIONS INVOLVED, LEAVING RAYTHEON SOME FINANCIAL BENEFIT. OUR FEELING IS THAT SUCH CONDITIONS WOULD COMPLICATE

SITUATION AND INFORMAL SETTLEMENT PROBABLY WOULD NOT GET OFF GROUND.

7. WHILE EMB NOT OPTIMISTIC ABOUT POLICY LEVEL CAVING IN TO A NEGOTIATED SETTLEMENT INVOLVING DISBURSEMENTS GOI SIMPLY TO AVOID DIPLOMATIC CLAIM, FINAL HIGH LEVEL APPROACH THIS NATURE HAS APPEAL OF ITALIAN PAYMENT FROM ONE POCKET TO OTHER, AT LEAST IN PART, AND WOULD EMPHASIZE USG EFFORTS AVOID FILING FIRST DIPLOMATIC CLAIM AGAINST GOI DURING POST-WAR PERIOD. BY MAKING THESE SUGGESTIONS, EMB DOES NOT WISH INFER ANY DISPUTE WITH DEPT/RAYTHEON POSITION ON VALIDITY DIPLOMATIC CLAIM, LACK OF BASIS FOR BANK SUITS. OUR INTENT IS TO EXHAUST ALL POSSIBILITY FOR INFORMAL SETTLEMENT HAVING ONCE EMBARKED ON THAT ROUTE.

8. IF DEPT AGREES, AMB WOULD MAKE FINAL GESTURE TOWARD NEGOTIATED SETTLEMENT ALONG LINES EITHER OR BOTH POSITIONS SUGGESTED PARA 5 ABOVE. IF GOI INDICATES UNWILLINGNESS CONSIDER SETTLEMENT ALONG THESE LINES, AMB WOULD INVOKE DIPLOMATIC CLAIM. VOLPE

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